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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/646,101	12/07/2000	Werner Sobek		8961

7590 05/07/2002

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EXAMINER

TRAN A, PHI DIEU N

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 05/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/646,101	Applicant(s) SOBEK ET AL.	
	Examiner Phi D A	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-35 is/are pending in the application.
- 4a) Of the above claim(s) 25-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> | 6) <input type="checkbox"/> Other: _____ |

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Election without traverse to further prosecute the specie of figures 1A, 1B, and 2 to claims 18-24 is hereby confirmed.

Information Disclosure Statement

1. The information disclosure statement filed 3/24/01 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 18- 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Ennis(5463788).

Ennis (figures 1-3) shows a device having a shank (52), a cap (20, 18) connected to the shank having a membrane having tensile strength and low flexural strength, a circular base surface(each layer of the membrane forming a circular base surface), driving means (54, 28) for driving said membrane, wherein said membrane defining a position of rest wherein it droops limply around said shank (figure 3) and an open position wherein it assumes an essentially

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horizontally position under the influence of centrifugal force generated due to the rotation of the membrane by the driving means, the driving means being an electric motor(54), said driving means being located at the head of the shank, the shank being fixed against relative rotation.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ennis (5463788) in view of Belanger (5127123).

Ennis shows all the claimed limitations except for the means clamping the membrane to the shank being two fixed disks.

Belanger (figure 6) shows two fixed disks clamping a membrane (35) to a shank(122).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Ennis to show the means clamping the membrane to the shank being two fixed disks because using two fixed disks to clamp the membrane to the shank would strongly secure the membrane to the shank as taught by Belanger.

Ennis as modified shows all the claimed limitations.

5. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ennis (5463788).

Ennis shows all the claimed limitations except for the motor being pneumatic.

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It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Ennis to show the motor being pneumatic because pneumatic, electrical, hydraulic motors are well-known drive means for rotating a shaft.

Ennis as modified shows all the claimed limitations.

6. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ennis (5463788) in view of Fromme (36834410).

Ennis shows all the claimed limitations except for the energy supply for the driving means being received in said shank.

Fromme shows the energy supply for the driving means (24, 10) being received in the shank (14).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Ennis to show the energy supply for the driving means being received in said shank because routing an energy source through a tubular member to a driving means is well known in the art as it would enable nice, neat wire routing with the additional benefit of no wire entanglement with other surrounding moving structures.

Ennis as modified shows all the claimed limitations.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references show different rotating device.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

A handwritten signature in black ink, appearing to read 'Phi Dieu Tran A', with a large, stylized loop at the end.

Phi Dieu Tran A
April 25, 2002